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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,560	08/13/2001	Lorraine E. Reeve	MBHB00-669-A	7162

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EXAMINER

THERKORN, ERNEST G

ART UNIT	PAPER NUMBER
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1723

10

DATE MAILED: 01/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/928,560

Applicant(s)

REEVE

Examiner

THEKORN

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.

If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.

Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jan 6, 2003
- 2a) This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) 5, 8, and 20 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, and 9-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) A) b) Some\* c) None of:
- Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |  |  |
|--|--|
| 1) Notice of References Cited (PTO 892)  | 4) Interview Summary (PTO 413) Paper No(s)         |
| 2) Notice of Draftsperson's Patent Drawing Review (PTO 948)  | 5) Notice of Informal Patent Application (PTO 152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO 1449) Paper No(s) <u>9</u> | 6) Other   |

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Claims 18 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 18 and 19 are improper dependent claims because they are not considered to further limit claim 1. Deleting the aqueous soluble extraction salt limitation is not considered to further limit claim 1.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

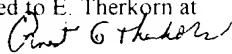
Claims 1-4, 6-7, and 8-19 are rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Reeve (U.S. Patent No. 5,800,711). The claims are considered to read on Reeve (U.S. Patent No. 5,800,711). However, if a difference exists between the claims and Reeve (U.S. Patent No. 5,800,711), it would reside in optimizing the steps of Reeve (U.S. Patent No. 5,800,711). It would have been obvious to optimize the steps of Reeve (U.S. Patent No. 5,800,711) to enhance separation.

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Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reeve (U.S. Patent No. 5,800,711) in view of either Hatti-Kaul Aqueous Two Phase Systems and Protocols, Humana Press (2000) pages 1-9 or that which is conceded to be old on page 7 of the specification. At best, the claims differ from Reeve (U.S. Patent No. 5,800,711) in reciting use of an incompatible polymer in place of salt. Protocols, Humana Press (2000) pages 1-9 on pages 1 and 2 discloses that polymer-polymer and polymer-salt aqueous two-phase systems are alternatives that have advantages over conventional extraction. Page 7, the last full paragraph of the specification concedes that polymer-polymer and polymer-salt two-phase systems are alternatively used for the fractionation of synthetic polymers. It would have been obvious to use an incompatible polymer in Reeve (U.S. Patent No. 5,800,711) either because Protocols, Humana Press (2000) pages 1-9 on pages 1 and 2 discloses that polymer-polymer and polymer-salt aqueous two-phase systems are alternatives that have advantages over conventional extraction or because page 7, the last full paragraph of the specification concedes that polymer-polymer and polymer-salt two-phase systems are alternatively used for the fractionation of synthetic polymers.

The restriction and election of species requirements have been reconsidered, deemed proper, and made final.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (703) 308-0362

  
**Ernest G. Therkorn**  
**Primary Examiner**  
**Art Unit 1723**

EGT/12  
January 16, 2003